

## REMARKS

Reconsideration of the present application is respectfully requested.

Claims 1-18 stand rejected under 35 U.S.C. §102(e) in view of Naruse et al. Applicant's claimed power system differs from the system disclosed in Naruse et al. in several important ways. The Naruse et al. disclosure relates to a relatively complex system for energy recovery via a selection among hydraulic oil flow paths based on relative back pressures thereof (col. 2, lines 45-54). Once a flow path is selected in Naruse et al., hydraulic oil flows through a hydraulic motor and exclusively to a drain. In contrast, Applicant's disclosure is directed toward a relatively non-complex system wherein a fluid driven rotating device can recapture energy, but need not necessarily divert the hydraulic oil solely to a drain. Applicant's claimed design allows substantial flexibility in how and when hydraulic oil will flow through the system and power the hydraulic motor. To better emphasize certain of the distinctions over Naruse et al., however, Applicant has amended claim 1 to avoid any misinterpretation.

In particular, claim 1 has been amended to recite that the fluid driven rotating device, e.g. motor 35, is fluidly connected to both of the first fluid volume 23 and the second fluid volume 24 defined by the at least one hydraulic cylinder. Antecedent basis for this newly added limitation may be found, for example, in Figure 2 of Applicant's disclosure, wherein motor 35 is shown disposed between lines 47a and 47b, fluidly connecting with fluid volumes 23 and 24. Amended claim 1 distinctly sets forth a limitation not taught or suggested by Naruse et al. In particular, in Naruse et al. the hydraulic motors 62 and 67 are fluidly connected only with one fluid volume of the respective cylinders. The Naruse et al. system admittedly allows fluid expelled from one side of a hydraulic cylinder to be diverted through a hydraulically driven motor, however, to refill the opposite side of the hydraulic cylinder, fluid is re-supplied via pump 22. Applicant's system, via the claimed fluid connection arrangement of claim 1, allows a portion of fluid from first volume 23 to be passed through motor 35 and replenished to second volume 24. Accordingly, Naruse et al. cannot serve as a proper 102(e) reference, as it does not teach all the limitations of claim 1, and withdrawal of the rejection to claim 1 and the claims dependent thereto is respectfully requested.

Applicants respectfully assert that Naruse et al. cannot properly support a rejection of any of Applicant because it does not show exactly what was claimed, as required by the MPEP

and relevant case law. Nevertheless, Claim 7 has been amended to require several new limitations, including “means for supplying pressurized hydraulic fluid to at least one hydraulic cylinder.” Further, the means for converting hydraulic power to mechanical power is “at least in part via a fluid driven rotating device” that is “disposed at least partially within a fluid passage connecting said means for supplying with said at least one hydraulic cylinder.” As illustrated by way of example in Applicant’s Figure 2, these claimed features are shown by the hydraulic motor 35 is disposed within a fluid passage that may include passage 25 and either of passages 47a and 47b, connecting hydraulic cylinder 15 with pump 22 (corresponding to the means for supplying). Naruse et al. does not teach such a design. In contrast, in Naruse et al., the hydraulic motors 62 and 67 are disposed downstream of the cylinders, and are only operated via hydraulic fluid spilled from the cylinders to the drain. Naruse et al. therefore does not teach all the limitations of claim 7 and the claims dependent thereto, and withdrawal of the rejections to claim 7 and the claims dependent thereto is respectfully requested.

Claim 11 also stands rejected based upon Naruse et al. Although Applicant respectfully disagrees, Claim 11 has been amended to require that the step of powering a generator includes converting “at least a portion” of hydraulic power “via a fluid driven rotating device fluidly positioned between a first volume and a second volume of the hydraulic cylinder.” The amendment to claim 11 is similar to the amendment to apparatus claim 1, namely, in the positioning of the fluid driven rotating device. Similar to the foregoing discussion with regard to claim 1, Naruse et al. does not include a fluid driven rotating device that is positioned between the separate volumes defined by a hydraulic cylinder, and withdrawal of the rejection to claim 11 and the claims dependent thereto is respectfully requested.

Claim 16 is also rejected based upon Naruse et al. Although Applicant respectfully disagrees, Claim 16 has been amended to require that the hydraulic cylinder define first and second fluid volumes. In addition, claim 16 requires that the fluid driven rotating device be positioned within “a fluid pathway connecting said first and second volumes, wherein said fluid pathway includes at least two adjustable valves disposed in parallel.” Figure 2 illustrates the positioning of motor 35 in a fluid pathway between the first and second volumes, as well as the adjustable valves 27, 28 and 29, at least two of which may be understood as positioned in parallel. Providing at least two adjustable valves disposed in parallel provides for substantial flexibility in how fluid displaced from either of volumes 23 and 24 may be routed within the

system, as well as flexibility in how fluid may be routed between pump 22 and cylinder 15, as described in paragraph 21 of Applicant's specification. Naruse et al. does not teach positioning a fluid driven rotating device in a fluid pathway having at least two valves disposed in parallel. Withdrawal of the rejection to claim 16 and the claims dependent thereto is therefore respectfully requested.

Applicants have also added new claim 19, which depends from claim 1. Claim 19 requires "at least one adjustable valve disposed between the first volume and the second volume to selectively fluidly connect the same." In Naruse et al., there is no connection between the separate cylinder volumes. Although control valve 23 appears to have passages from the separate cylinder volumes connecting therewith, there is no indication or suggestion to fluidly connect the respective cylinder volumes. No additional fee is believed to be needed. But the Director is authorized to charge any underpayment or credit any overpayment to deposit account 500226.

This application is believed to be in condition for allowance of claims 1-19. However, the Examiner is invited to contact the undersigned attorney (812) 333-5355 if any additional minor clarification would put this application in even better condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'MBL' followed by a stylized flourish.

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